

**Summary of Testimony of  
Curt L. Hébert, Jr., Chairman  
Kevin P. Madden, General Counsel  
Federal Energy Regulatory Commission  
Before the Committee on Government Reform  
United States House of Representatives  
April 10-12, 2001**

Wholesale and retail electricity markets in California and throughout much of the West are in a state of stress, and they will continue to experience very serious problems throughout the coming summer. Wholesale prices have increased substantially for a variety of reasons, consumers are being implored to conserve as much as possible, and utilities continue to face severe financial problems. Pacific Gas & Electric Company has now filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. As a result of California's market dysfunctions and their impact in the West, many now argue that we need to return to cost-based regulation, instead of relying on market-driven solutions.

First, price caps are not a long-term solution. We need to promote new supply and load reductions. Market prices send the right signals to both sellers and buyers (at least those not subject to a rate freeze). Market prices will increase supply and reduce demand, thus correcting the current imbalance. Capping prices below market levels through regulation or legislation will have exactly the opposite effect.

Second, infrastructure improvements are greatly needed throughout the West and especially in California. We need to create the appropriate financial incentives to ensure that new generation is built, that the transmission system is upgraded and that new gas pipelines are built.

Finally, we need a regional transmission organization (RTO) for the West. A West-wide RTO will increase market efficiency and trading opportunities for buyers and sellers throughout the West.

Consistent with these three points, the Federal Energy Regulatory Commission has been aggressively identifying and implementing market-driven solutions to the problems: (1) by stabilizing wholesale energy markets; (2) by adopting or proposing additional short-term and long-term measures that will increase supply and delivery infrastructure, as well as decrease demand; (3) by promoting the development of a West-wide regional transmission organization; and, (4) by monitoring market prices and market conditions.

Other regions that have not adopted California-type restrictions on electricity competition have demonstrated that consumers can and do gain from electricity competition and restructuring. California and Western consumers similarly can share in these gains, once market rules are in place that will make California and other Western states an attractive place for investment.

**Testimony of  
Curt L. Hébert, Jr., Chairman  
Kevin P. Madden, General Counsel  
Federal Energy Regulatory Commission  
Before the Committee on Government Reform  
United States House of Representatives  
April 10-12, 2001**

**I. Overview**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear here today to discuss the topic of electricity markets in California. As we all convene here today, we are keenly aware that wholesale and retail electricity markets in California and throughout much of the West are in a state of stress and that these markets will continue to experience very serious problems throughout the coming summer. Wholesale prices for electricity have increased substantially for a variety of reasons in the last year. California power consumers are being implored to conserve. California load-serving utilities continue to face severe financial problems, and one of those utilities, Pacific Gas & Electric Company, has filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. And companies supplying wholesale power into California are unsure how much, or even whether, they will be paid for their supplies.

While the situation in California is not representative of other parts of the country that are successfully developing competitive markets, it nevertheless underscores the fundamental infrastructure problems facing the country. The demand for electricity continues to expand while supply fails to keep pace. The development and licensing of new hydroelectric capacity – which provides much of the existing power supply in the West – is nearly exhausted. Very little fossil-fired generation has been added in many regions of the

country over the last few years, and in California no major plants have been added in the last decade. And the existing electric transmission grid is often fully loaded and, absent necessary expansion, is often incapable of delivering power to those regions where it is valued the most.

I would like to make three main points with respect to these problems and to identify the steps the Commission is taking to address these problems.

First, price caps are not a long-term solution. We need to promote new supply and load reductions. Market prices send the right signals to both sellers and buyers (at least those not subject to a rate freeze). Market prices will increase supply and reduce demand, thus correcting the current imbalance. Capping prices below market levels will have exactly the opposite effect.

Second, infrastructure improvements are greatly needed throughout the West and especially in California. We need to create the appropriate financial incentives to ensure that new generation is built, that the transmission system is upgraded and that new gas pipelines are built.

Finally, we need a regional transmission organization (RTO) for the West. California is not an island. It depends on generation from outside the State. The shortages and the prices in California have affected the supply and prices in the rest of the West. The Western transmission system is an integrated grid, and buyers and sellers need non-discriminatory access to all transmission facilities in the West. A West-wide RTO will increase market efficiency and trading opportunities for buyers and sellers throughout the West.

Consistent with these three points, the Commission continues aggressively to identify and implement solutions to the problems:

- o **First**, in recent months, the Commission has issued a number of orders intended to restore market stability. The Commission has acted to move utilities out of volatile spot markets to enable them to develop a portfolio of risk reducing and creditworthy contracts that will reduce price risks.
- o **Second**, the Commission has recently adopted or proposed a range of additional measures that will increase supply and delivery infrastructure, as well as reduce demand for electricity in the Western Interconnection.
- o **Third**, the Commission is continuing to work with market participants on developing, as quickly as possible, a West-wide regional transmission organization. Such an organization will bring a regional perspective and offer regional solutions to regional problems.
- o **Fourth**, the Commission is monitoring market prices and market conditions with the goal of ensuring long-term confidence in Western markets. Moreover, the Commission's staff has proposed a new plan to monitor and, when appropriate, mitigate the price of electric energy sold in California's spot markets on a before-the-fact basis, instead of addressing prices through after-the-fact refunds. The Commission expects to act on this proposal by May 1, 2001.

By itself, however, the Commission can contribute only a small part of the solution to today's energy problems. A more comprehensive and permanent solution requires the involvement of the states and other federal agencies and departments. I am encouraged by all of the hard work and effort undertaken in recent months by the State of California and other Western states. The issues are difficult and the stakes are high. While reasonable minds can differ over the appropriate solutions to these problems, the Commission is committed to resolving these problems deliberatively.

An attachment to my testimony provides details on the Commission's actions concerning California's electricity markets in recent months.

## **II. What Went Wrong Here?**

### **A. Legislative Design**

The State of California has been widely questioned for its restructuring legislation (AB 1890), unanimously enacted in 1996. While mistakes were made, California is to be commended for realizing that consumers are better off if supply and pricing decisions are based on market mechanisms, not bureaucratic fiat. The premise of this legislation was that consumers would enjoy lower rates and increased service options, without compromising reliability of service, if electricity providers could be motivated to serve by market forces and competitive opportunities.

The major features of AB 1890 included: (1) creation of an independent system operator (ISO) and power exchange (PX) by January 1998 and simultaneous authorization of retail competition; (2) creation of the California Electricity Oversight Board with members appointed by the Governor and legislature; (3) a competitive transition charge for the recovery of the traditional utilities' stranded costs; and (4) a ten percent rate reduction for residential and small customers, and a rate freeze for all retail customers.

There were two major flaws in California's market design. First, the three utilities were forced to buy and sell power exclusively through the spot markets of the PX. This prevented the utilities from hedging their risks by developing a portfolio of short-term and long-term energy products. Second, the State-mandated retail rate reduction and freeze eliminated any incentives for demand reduction, discouraged entry by competitors for retail sales and, more recently, has threatened the financial health of the three investor-owned,

load serving utilities by delaying or denying their recovery of billions of dollars in costs incurred to provide service to retail customers.

However, California's situation does not demonstrate the failure of electricity competition. To the contrary, it demonstrates the need to embrace competition fully, instead of tentatively. Other states, such as Pennsylvania, have been successful in implementing electricity competition. California needs to move forward on the competitive path it has chosen, allow new generation and transmission to be sited and built, and allow its citizens to benefit from the lower rates, higher reliability, and wider variety of service options that a truly competitive marketplace can provide.

## **B. Other Factors**

Until last year, California's spot market prices were substantially lower than even California's mandated rate freeze level. This allowed the California investor-owned utilities to pay down billions of dollars of costs incurred during cost-of-service regulation. However, several events resulted in higher spot electricity prices beginning last summer. Those events included one of the hottest summers and driest years in history, as well as several years of unexpectedly strong load growth. Other factors that have recently influenced prices include:

- o unusually cold temperatures in early winter in the West and Northwest;
- o California generation was unavailable to supply normal winter exports to the Northwest;
- o very little generation was added in the West, particularly in California, Washington and Oregon, during the last decade;
- o environmental restrictions limited the full use of power resources in the region;

- o scheduled and unscheduled outages, particularly at old and inefficient generating units, removed large amounts of capacity from service; and
- o natural gas prices increased significantly, due to higher commodity prices, increased gas demand, low storage, and constraints on the delivery system.

Taken together, these factors demonstrate that the present problems in electricity markets are not just “California” problems. Normal export and import patterns throughout the West have been disrupted. Reserve margins throughout the West are shrinking. This winter, when the demand for electricity was relatively low, Stage Three emergencies in California were commonplace.

### **III. The Commission's Role in California's Restructuring**

#### **A. Start-up and Early Problems**

The Commission began addressing the California restructuring in 1996. Initially, the Commission's approach was largely deferential to State decisions affecting wholesale power market matters within FERC's jurisdiction. However, as problems started surfacing and then heightened significantly in the Summer of 2000, the Commission found that it could no longer defer to State decisions affecting matters within the Commission's jurisdiction. The resources devoted by the Commission to California's restructuring were significant from the beginning and, in recent months, have increased substantially.

In 1996 and 1997, the Commission approved, with limited exceptions, the jurisdictional aspects of the California restructuring as proposed. The Commission authorized the transfer of operational control of transmission facilities from Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SoCal Ed), and San

Diego Gas and Electric Company (SDG&E) (collectively, the California IOUs) to the ISO. The Commission also authorized the ISO and PX to commence operations.

Shortly after the ISO and PX commenced operations on March 31, 1998, prices for ancillary services (e.g., spinning reserves) in the ISO's markets increased significantly. The ISO proposed purchase price caps as a solution. In response, the Commission authorized the ISO for an interim period to reject bids in excess of whatever prices the ISO believed were appropriate for the ancillary services it procured. The Commission stated, however, that a purchase price cap is not an ideal approach to operating a market and that it did not expect the cap to remain in place on a long-term basis. The Commission later approved an ISO filing seeking authorization for a similar purchase price cap for an additional ISO-operated market (imbalance energy).

Subsequently, the Commission authorized the ISO to continue specifying purchase price caps for ancillary services and imbalance energy until November 15, 1999. The Commission said the ISO could file for another extension of its price cap authority if serious market design flaws still existed. In late 1999, the ISO filed to extend the purchase price cap. The Commission permitted a purchase price cap of \$250 to remain in effect from August 7 until December 8, 2001. (Buyer caps of \$750, then \$500, had been in effect prior to that time.)

## **B. Actions Taken Last Year**

Last summer, bulk power prices in California began increasing significantly. (Other parts of the country also experienced price spikes then, but outside of the West prices



generally subsided later in the year.) As the problems in California's bulk power markets mounted, the Commission realized that its policy of deference had not worked as intended, and that the Commission needed to take more of a leadership role in addressing the problems.

On July 26, 2000, the Commission ordered a staff fact-finding investigation on technical or operational factors, regulatory prohibitions or rules (Federal or State), market or behavioral rules, or other factors affecting the competitive pricing of electric energy or the reliability of service in electric bulk power markets. The Commission directed its staff to report its findings to the Commission by November 1, 2000.

In August 2000, the Commission issued an order initiating a formal hearing under Section 206 of the Federal Power Act (FPA) on the rates of public utilities that sell in California's spot markets. This action meant that refunds could be ordered as of the earliest possible refund effective date under Section 206 -- October 2, 2000 -- if rates were found to be unjust and unreasonable. The Commission on its own motion also ordered an investigation into whether the tariffs and institutional structures and bylaws of the California ISO and PX were adversely affecting the efficient operation of competitive wholesale electric power markets in California and needed to be modified.

On November 1, 2000, upon completion of the Commission staff study of bulk power markets, the Commission found that:

the electric market structure and market rules for wholesale sales of electric energy in California are seriously flawed and these structures and rules, in conjunction with an imbalance of supply and demand in California, have caused, and continue to have the potential to cause, unjust and unreasonable

rates for short-term energy (Day-Ahead, Day-of, Ancillary Services and real-time energy sales) under certain conditions.

93 FERC ¶ 61,121 at 61,349-50 (2000). To fulfill its duty under the FPA, the Commission then proposed a number of remedies "to establish market rules, regulations and practices that will ensure just and reasonable rates in the future." *Id.*, at 61,350. The Commission allowed an opportunity for public comment on its proposed remedies, and held a technical conference with affected parties, including California state officials.

In an order issued on December 15, 2000, the Commission adopted a series of remedial measures designed to stabilize wholesale electricity markets in California and to correct wholesale market dysfunctions. The Commission recognized that the primary flaw in the California market design was the requirement for the California IOUs to buy and sell solely in spot markets. The Commission removed this requirement from the wholesale tariff to allow the utilities, first, to use their own remaining generation resources to meet demands at state-regulated prices and, second, to help them meet much of their remaining needs for power through forward contract purchases. Our action returned to California the ability to regulate about one-half of the California IOUs' peak load requirements. The Commission also ordered the termination of the PX's wholesale rate schedules effective as of April 30, 2001.

In addition, the order addressed the problem of underscheduling, directing utilities to arrange 95 percent of their transactions before real-time, to reduce the reliance on the ISO's real-time market. A penalty would be imposed for utilities that did not comply.

The order also established a \$150 per MWh breakpoint mechanism as part of a rate monitoring and mitigation plan from January 1, 2001 until May 1, 2001, when the Commission expects to put in place long-term measures. The ISO's rules were modified so that bids above \$150 per MWh would not set the market clearing prices paid to all bidders. Public utility sellers (primarily the investor-owned utilities) that bid above this breakpoint were required to file weekly transaction reports with the Commission. Sellers were made liable for refunds if the Commission finds they sold power at prices that were not just and reasonable.

**C. The Commission's Latest Efforts**

Since the Commission's change in Chairmanship on January 22 of this year, the Commission has implemented a number of significant steps to address the problems in the California and Western energy markets, as summarized briefly below. (Many of the following matters are still pending before the Commission, so my remarks are limited to describing the actions taken without further addressing the merits.)

On January 29, 2001, the Commission issued an order finding the PX in violation of its December 15 order by not implementing the \$150 per MWh breakpoint mechanism, and it required immediate recalculation of wholesale rates by the PX. The Commission stated that the PX's violation was costing electricity consumers substantial amounts of money. The Commission cited an estimate by PG&E that the cost of the PX's violation for just one day in early January was over \$20 million.

On February 14, 2001, the Commission addressed tariff revisions proposed by the ISO and PX to lower their creditworthiness requirements. At the time, the credit ratings of PG&E and SoCal Ed had deteriorated significantly, making them unable to meet the existing requirements. The Commission accepted the ISO's amendment to the extent of allowing PG&E and SoCal Edison to continue using their own generating resources to serve their own load. The Commission held, however, that the utilities could continue buying through the ISO from third-party suppliers only if they obtained adequate financial backing from others (such as the California Department of Water Resources). The Commission found this result necessary to prevent price increases to consumers because suppliers would otherwise raise their prices to compensate for the utilities' credit risk. (The Commission noted that the PX had suspended operations of its spot markets and, thus, rejected the PX's filing.)

On March 9 and 16, 2001, the Commission took further steps to mitigate prices in California, specifically the prices charged in California's spot markets during Stage Three emergencies in January and February of this year. After examining prices charged in these periods, the Commission identified many transactions that warranted further investigation. The Commission required these sellers to either refund certain amounts (or offset these amounts against amounts owed to them) or provide additional information justifying their prices. Specifically, the Commission required refunds or offsets of approximately \$124 million. The Commission used a proxy price approach based on the market clearing price that would have occurred had the sellers bid their variable costs into a competitive single price auction.

On March 14, 2001, the Commission issued an order seeking to increase energy supplies and reduce energy demand in California and the West. The Commission implemented certain measures immediately, including: streamlining filing and notice requirements for various types of wholesale electric sales (including sales of backup or on-site generation and sales of demand reductions); extending (through December 31, 2001) and broadening regulatory waivers for qualifying facilities under the Public Utility Regulatory Policies Act of 1978, enabling those facilities to generate more electricity; expediting the certification of natural gas pipeline projects into California and the West; and, urging all licensees to review their FERC-licensed hydroelectric projects in order to assess the potential for increased generating capacity.

The Commission also proposed, and sought comment on, other measures such as incentive rates and accelerated depreciation for new transmission facilities and natural gas pipeline facilities completed by specified dates, blanket certificates authorizing construction of certain types of natural gas facilities, and allowing greater operating flexibility at hydroelectric projects to increase generation while protecting environmental resources. Finally, the Commission stated its intent to hold a one-day conference with state commissioners and other state representatives from Western states to discuss price volatility in the West, as well other FERC-related issues recently identified by the Governors of Western States. The conference is being held in Boise, Idaho, on April 10.

Also on March 14, the Commission ordered two utilities to justify the duration of outages at their California generating facilities. The outages forced the ISO to purchase

more expensive power from the utilities' other generating facilities. Absent adequate justification, the utilities must make refunds.

On March 28, 2001, the Commission addressed a complaint by the California Public Utilities Commission under section 5 of the Natural Gas Act against El Paso Natural Gas Company and its marketing affiliate. The California Commission asserted that certain contracts between the pipeline and its affiliate for firm pipeline capacity to California raised issues of possible affiliate abuse and anti-competitive impact on the delivered price of gas and the wholesale electric market in California. FERC found the allegations of affiliate abuse unjustified. However, the Commission ordered a hearing before an administrative law judge on whether El Paso and/or its marketing affiliate may have had market power and, if so, exercised it so as to drive up natural gas prices at the California border. The Commission directed the judge to provide the Commission with an initial decision within 60 days.

In sum, the foregoing efforts demonstrate the Commission's commitment to take all appropriate actions to remedy the current imbalances in Western energy markets. While some have accused the Commission of being indifferent or even hostile to the concerns of California consumers, the Commission's actions prove otherwise. We have pursued the remedies we believe will be most effective, not only in the short-term but also in the long-term. Others may disagree with our solutions, but no one should doubt the Commission's resolve to ensuring an adequate supply of energy for all consumers at reasonable prices.

#### **IV. We Need A West-wide RTO**

The development of a West-wide regional transmission organization (RTO) is vital to preventing future problems in the West. The shortages and prices in California have affected the supply and prices in states throughout the West because the Western transmission system is an integrated grid. A West-wide RTO is critical to support a stable interstate electricity market that will provide buyers and sellers the needed non-discriminatory access to all transmission facilities in the West. A West-wide RTO will increase market efficiency and trading opportunities for buyers and sellers throughout the West.

A West-wide RTO should be truly West-wide. It should include participation by both public utilities as well as non-public utility entities such as municipalities and cooperatives. To encourage the formation of a West-wide RTO, Congress may wish to consider the elimination of tax or other restrictions on public power and cooperative participation in RTOs. Congress may also wish to consider eliminating any impediments to participation by the Bonneville Power and Western Area Power Administrations in a West-wide RTO.

#### **V. Possible Sale of Transmission Assets to the State of California**

One step that has been considered as a way to address the financial problems of California's public utilities is for the State to purchase their transmission facilities. Such a transaction, in my view, would require the Commission's approval. Section 203 of the Federal Power Act requires Commission review of the transfer of ownership or operational

control of jurisdictional transmission facilities owned by public utilities, when such facilities have a value exceeding \$50,000. If this transaction occurs, the Commission would need to decide whether the transaction is consistent with the public interest, based on all relevant considerations.

## **VI. Price Caps Would Make Things Worse**

Some advocate price caps or cost-based limitations as a temporary way to protect consumers until longer-term remedies alleviate the supply/demand imbalance. The issue of price caps in the West has been raised on rehearing of the Commission's order of December 15, 2000, and, accordingly, is pending before the Commission. For this reason, I cannot debate the specific merits of price caps for California or the West. However, I will reiterate briefly publicly stated views on this issue.

As a general matter, price caps do not promote long-term consumer welfare. Price caps will not increase energy supply and deliverability or decrease demand. Instead, price caps will deter supply and discourage conservation. At this critical time, legislators and regulators need to do everything they can to promote supply and conservation, not discourage them.

This viewpoint is based on experience, not just economic theory. The summer of 1998 illustrates the point. Then, wholesale electricity prices in the Midwest spiked up significantly. The Commission resisted pleas for immediate constraining action, such as price caps. Subsequently, suppliers responded to the market-driven price signals, and today the Midwest is not experiencing supply deficiencies.



In short, price caps can have long-term harmful effects because they do not provide appropriate price signals and may exacerbate supply deficiencies. Supply and demand cannot balance in the long-term if prices are capped.

In the context of California, today we have prices that reflect the fact that supplies are barely adequate. If we reduce prices, supplies will go elsewhere, risking greater reliability problems. Price caps will only aggravate the supply-demand imbalance.

In addition, capping prices based on individual seller costs likely would require lengthy, costly and contentious evidentiary hearings. Litigating such a rate case for one seller requires a significant commitment of resources. Concurrently litigating such cases for scores of sellers in the West would be overwhelming both for the Commission and the industry. Moreover, neither buyers nor sellers would be sure of the prices until the conclusion of this litigation. This delay in price certainty would be unfair to customers and discourage new investments by suppliers.

Many leaders share these views. In a letter to the Secretary of Energy, dated February 6, 2001, eight Western governors expressed their opposition to regional price caps. They explained that "[t]hese caps will serve as a severe disincentive to those entities considering the construction of new electric generation, at precisely the time all of us – and particularly California – are in need of added plant construction."

In the face of the current challenges, we all must have an open mind to any proposals that may mitigate the energy problems in the West. With respect to proposals for a West-wide cap, however, several points must be considered. First, any effort by the Commission

to impose a West-wide cap will miss the large part of the Western market that is beyond the Commission's jurisdiction, let alone the other domestic and international markets.

Regulating only one part of a market is unlikely to help, as investors and suppliers will simply focus their efforts elsewhere. Second, the price caps used previously in California were administratively easy to implement because California (unlike other parts of the West) has a spot market managed by a jurisdictional public utility. Absent such a spot market, price caps are much more difficult to implement and monitor. Third, a West-wide price cap as proposed by some would abrogate all existing long-term contracts containing higher prices. Historically, the Commission generally has been reluctant to take such an action, preferring instead to honor the contractual commitments that parties voluntarily make.

## **VII. Conclusion**

The Commission remains willing to work in a cooperative and constructive manner with other federal and state agencies. Both the federal government and state governments have critical roles to play in promoting additional energy supply and deliverability and decreasing demand. Through its authority to set rates for transmission and wholesale power and to regulate interstate natural gas pipelines and non-federal hydroelectric facilities in interstate commerce, the Commission can take a range of measures to promote a better balance of supply and demand, but its jurisdiction is limited. The Commission can set pricing policies which encourage entry, but it is state regulators that have siting authority for electric generation and transmission facilities, as well as authority over local distribution facilities (both for electricity and natural gas). These authorities can go a long way in

improving the grid for both electricity and natural gas. More importantly, state regulators have the most significant authorities to encourage demand reduction measures, which can greatly mitigate the energy problems in California and the West.

The Commission will continue to take steps that, consistent with its authority, can help to ease the present energy situation without jeopardizing longer-term supply solutions. As long as we keep moving toward competitive and regional markets, I am confident that the present energy problems, while serious, can be solved. I am also confident that market-based solutions offer the most efficient way to move beyond the problems confronting California and the West.

Thank you.

**Commission Staff Summary of  
Recent Commission Actions on California Electricity Markets**

**NOVEMBER 2000**

- November 1: San Diego Gas & Elec. Co. (Complainant) v. Sellers of Energy and Ancillary Services into Markets Operated by CalISO and CalPX, 93 FERC ¶ 61,121 (order proposing remedies for California crisis on complaint of SDG&E)("November 1 Order")
- November 6: CPUC asks FERC to assist CPUC in investigation (Docket EL00-95-000)
- November 9: Public Conference re FERC-proposed remedies held in Washington (see 93 FERC ¶ 61,122)
- November 22: California Power Exchange Corp., 93 FERC ¶ 61,199 (order accepting amendments to streamline and clarify several provisions of the PX tariff)
- November 22: Pacific Gas & Elec. Co., 93 FERC ¶ 61,207 (order suspending PG&E transmission rate increase proposal)

**DECEMBER 2000**

- December 7:  
  
SDG&E files request for emergency relief re natural gas prices (Docket RP01-180)  
  
SoCal Edison files motion seeking to subpoena ISO Market Surveillance Committee data (Docket EL00-95-000)
- December 8:  
  
San Diego Gas & Elec. Co., 93 FERC ¶ 61,238 (order waiving operating efficiency and other regulatory requirements governing "QFs" and other small power producers to boost power output in California)  
  
December 8: California ISO Corp., 93 FERC ¶ 61,239 (order authorizing ISO tariff amendments to: (1) convert existing \$250/MWh hard cap on bids in the real-time market into a \$250/MWh breakpoint; (2) impose a penalty on generators who fail to comply with an ISO emergency order to provide power; and (3) assess costs against parties that underschedule demand or fail to deliver power.

- December 11 and 12: Motions for clarification, modification, and rehearing of December 8 ISO order
- December 13: SoCal Edison files motion for immediate modification of December 8 QF order
- December 13: California Power Exchange Corp., 93 FERC ¶ 61,260 (order accepting settlement re PX dispute resolution procedures)
- December 15: San Diego Gas & Elec. Co. (Complainant) v. Sellers of Energy and Ancillary Services into Markets Operated by CalISO and CalPX, 93 FERC ¶ 61,294 (Order adopting remedial measures to reduce reliance on volatile spot markets, including: (1) eliminating requirement that investor-owned utilities sell all their generation into the PX markets; (2) requiring 95 percent of demand to be scheduled in advance and establishing a benchmark for long-term contracts; and (3) imposing an interim \$150/MWh soft cap or "breakpoint" on spot markets pending development of longer term price mitigation plan )("December 15 Order")
- December 18 and 20: SoCal Edison and PG&E file emergency requests for rehearing of December 15 Order
- December 20: Marketers file emergency motion for order requiring ISO and PX not to disclose confidential information (Docket EC96-1663-000)
- December 22:  
  
Dynergy files complaint alleging that rates paid for energy supplied in response to an ISO emergency order are confiscatory (Docket EL01-23-000)  
  
Dynergy files emergency motion for clarifications of December 15 order to ensure payment to suppliers (Docket EL00-95-006)  
  
Commission issues data request in response to December 7 SDG & E complaint re natural gas prices
- December 26: PX files request for rehearing and stay of December 15 order (Docket EL00-95-005)
- December 29:  
  
Southern California Edison Co., 93 FERC ¶ 61,320 (order analyzing and accepting SoCal Edison rates for scheduling and dispatching)

Pacific Gas & Elec. Co., 93 FERC ¶ 61,322 (order rejecting PG&E filing regarding its scheduling on the ISO)

San Diego Gas & Elec. Co., 93 FERC ¶ 61,333 (order accepting SDG&E rate filing re so-called "RMR" generating units—units that must run to assure system reliability)

Southern California Edison Co., 93 FERC ¶ 61,334 (order accepting RMR tariff for SoCal Edison)

California ISO Corp., 93 FERC ¶ 61,337 (order accepting ISO grid mgmt charges)

## **JANUARY 2001**

- January 4: ISO files tariff amendment to relax its creditworthiness standards to allow PG&E and SoCal Edison to continue conducting transactions on ISO-controlled grid, notwithstanding downgrades in their credit ratings (Docket No. ER01-889-000)
- January 5: PX files tariff amendment to relax its creditworthiness standards to allow PG&E and SoCal Edison to continue trading in the PX markets, notwithstanding downgrades in their credit ratings (Docket No. ER01-902-000)
- January 8: San Diego Gas & Elec. Co., 94 FERC ¶ 61,005 (order clarifying that December 15 Order was not intended to bar the PX from engaging in bilateral forward contracting)
- January 12:

Pacific Gas & Elec Co., 94 FERC ¶ 61,025 (order authorizing intra-corporate reorganization of PG&E Corporation)

Sierra Pacific Power Co., 94 FERC ¶ 61,033 (order denying rehearing re priority use of certain California grid interties)

- January 16: California Power Exchange Corp., 94 FERC ¶ 61,042 (order authorizing PX to implement emergency tariff changes to allow SoCal Edison two additional days to make its payment)
- January 18: ISO files tariff amendment to conform to December 15 order re payment procedures for RMR operations (Docket ER01-991-000)
- January 19 through February 12: Various persons, including State of California and CPUC, file requests for late intervention and rehearing of January 12 order

authorizing intra-corporate reorganization of PG&E Corporation (Docket Nos. EC01-41-000 and EC01-49-000)

- January 23: PG&E files motion for immediate order to stop PX from liquidating PG&E's long-term or "block forward" contracts after PG&E refuses PX demand for payment to cover a portion of SoCal Edison's nonpayment for transactions in the PX spot markets (Docket No. EL01-29-000)
- January 23: FERC staff conducts technical conference with industry representatives re spot market monitoring and mitigation plan
- January 25: Pacific Gas & Elec. Co., 94 FERC ¶ 61,082 (order denying rehearing request re PG&E transmission rates)
- January 29: San Diego Gas & Elec. Co., 94 FERC ¶ 61,085 (order finding PX in violation of December 15 order for failing to implement \$150/MWh breakpoint)

## **FEBRUARY 2001**

- February 1: Los Angeles Dep't Water & Power files emergency petition for reimposition of price cap on natural gas pipeline capacity (Docket RP01-222-000)
- February 2:  
  
SoCal Edison files emergency motion for cease and desist order preventing PX from liquidating SoCal Edison's long-term "block forward" contracts to cover SoCal Edison's nonpayment for transactions in the PX spot markets (Docket EL01-33-000)  
  
SoCal Edison and PG&E file for immediate suspension of underscheduling penalties imposed by December 15 order (Docket EL01-34-000)
- February 6: Mirant Delta files complaint with request for fast track processing that: (1) seeks enforcement of the creditworthiness standards for PG&E and SoCal Edison in the ISO tariff; and (2) alleges ISO violation of December 15 order for failure to replace governing board (Docket EL01-35-000)
- February 7: Pacific Gas & Elec. Co., 94 FERC ¶ 61,093 (order accepting settlement re PG&E transmission rates)
- February 8 and 12, and March 2: Various parties, including Coral Power, Enron, SDG&E, Salt River Project Agricultural Improvement and Power District, Sacramento Municipal Utility District, and Public Service Company of New Mexico file three complaints requesting that the PX be barred from further implementing tariff "charge back" provision that allows the PX to recover uncollected amounts owed by

PG&E and SoCal Edison from other market participants (Docket EL01-36-000, EL01-37-000, and EL01-43-000)

- February 14: California ISO Corp., 96 FERC ¶ 61,132 (order rejecting ISO and PX tariff amendments relaxing creditworthiness standards for PG&E and SoCal Edison as applied to transactions affecting third-party suppliers)
- February 15: FERC staff meets with PX regarding requirements for implementing \$150/MWh breakpoint
- February 21:

California ISO Corp., 94 FERC ¶ 61,141 (order accepting amendments to ISO tariff governing agreement among owners and addressing complaints by City of Vernon regarding conditions of becoming participating ISO owner)

California ISO Corp., 94 FERC ¶ 61,148 (order denying rehearing of October 2000 order relating to ISO's transmission access pricing)

Pacific Gas & Elec. Co., 94 FERC ¶ 61,154 (order denying intervention and rehearing of January 12 order authorizing PG&E Corporation intra-corporate reorganization)

- February 22: generators request order compelling ISO to comply with February 14 order re creditworthiness (ER01-889-002)
- February 23: San Diego Gas & Elec. Co., 94 FERC ¶ 61,200 (order on rehearing of December 29 order re assignment of RMR costs)
- February 26: PX files request for clarification/rehearing of February 14 creditworthiness order
- February 28:

PX makes compliance filing proposing implementation of \$150 MWh breakpoint requirement; seeks rehearing of January 29 order (EL00-95-016; EL00-98-015);

Tucson Electric files complaint against the Governor of California challenging California's "commandeering" of PG&E and SoCal Edison's long-term contracts from the PX (EL00-95; EL01-40-000)

Complaint filed by Strategic Energy L.L.C. versus ISO concerning out-of-market costs (EL01-41-000)



## MARCH 2001

- March 1:

ISO files revised tariff amendment on creditworthiness in compliance with February 14 order rejecting earlier proposed amendment

California Electricity Oversight Board files motion for clarification of December 15 order

ISO and Electricity Oversight Board file motion for issuance of refund notice to sellers, request for data, and request for hearing
- March 2: Universal Studios files complaint against SoCal Edison challenging penalties Universal was charged for failing to interrupt its service under its interruptible service contract with SoCal Edison (Docket No. EL01-42-000)
- March 7 through 23: Various persons file second round of requests for intervention and rehearing of January 12 order authorizing PG&E Corporation intra-corporate reorganization
- March 8: Ridgewood Power requests emergency relief and extension of waiver of "QF" regulations applicable to small generators (Docket No. EL00-95-018)
- March 9:

San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Services into Markets Operated by CalISO and CalPX, 94 FERC ¶ 61,245 (Order directing refunds or further justification for charges)

"Staff Recommendation on Prospective Market Monitoring and Mitigation for the California Wholesale Electric Power Market" (Docket Nos. EL 00-95-012, *et al.*)
- March 14:

"Order Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States and Requesting Comments on Further Actions to Increase Energy Supply and Decrease Energy Consumption (Docket No. EL 01-47-000) (order includes: (1) requirement that ISO and western transmission owners file list of grid enhancements that can be implemented in short term; (2) extension of waiver of QF regulations through December 31, 2001; (3) authorization for western businesses with back-up generators and customers who reduce their consumption to sell wholesale power at market-based rates; and (4) solicitation of comment on additional proposals)

Cities of Anaheim, et al. v. ISO, 94 FERC ¶ 61,268 (order dismissing in part and granting in part complaint alleging that certain cities are being charged inappropriate costs when ISO allocates the cost of power obtained through emergency orders to generators).

AES Southland, Inc., Williams Energy Trading & Marketing Co., 94 FERC ¶ 61, 248 (order directing parties to explain why they should not be found in violation of the Federal Power Act for engaging in actions that inflated electric power prices)

- March 15: Chairman testifies before the Senate Committee on Energy and Natural Resources
- March 16: San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Services into Markets Operated by CalISO and CalPX, (notice re refunds for February transactions) (Docket Nos. EL00-95-18)
- March 20: The Commissioners testify before the House Committee on Energy and Commerce, Subcommittee on Energy and Air Quality
- March 21: Reliant files fast-track complaint against the ISO challenging the ISO's issuance of emergency orders requiring generators to supply power (Docket No. EL01-57-000)
- March 28: CPUC v. El Paso Natural Gas Co., et al., 94 FERC ¶ 61,338 (order dismissing portion of complaint alleging affiliate abuse but ordering public hearing on whether El Paso exercised market power to drive up natural gas prices)
- March 29: ISO files motion for order directing Reliant to keep generating unit in service (Docket No. EL01-57-000)

## COURT CASES

- In re: Southern California Edison Co., No. 00-1543 ( D.C. Circuit Jan. 5, 2001) (petition for writ of mandamus to order FERC to set cost-based rates denied)
- San Diego Gas & Elec. Co. v. FERC, No. 00-71701 (9th Cir.)(judicial review of November 1 and December 15, 2000 orders; motion to dismiss pending)
- In re: California Power Exchange Corp., No. 01-70031 (9th Cir.)(petition for writ of mandamus to stay Dec. 15 order)

## **STAFF INVESTIGATIONS**

The Commission's staff has completed or initiated a number of public investigations, audits, and studies of matters relating to events in California, including:

- An audit of generation outages (report issued February 2, 2001)
- An analysis of the effect of a western region-wide price cap (released in early February)
- An analysis of causes of high prices in Pacific Northwest and California (released in early February)
- Ongoing analysis of market mitigation issues (pursuant to the December 15 Order, generators are required to file weekly market /cost data--starting January 10 and every Wednesday thereafter through April 2001--for Commission review and potential refunds; Commission has 60 days from each filing to give generators notice whether refunds required)